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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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EXAMINER
RAHMAN, FAHMIDA

ART UNIT	PAPER NUMBER
2116	

DATE MAILED: 08/21/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

	Application No.	Applicant(s)
	10/074,583	YOUNG, CARL
Office Action Summary	Examiner	Art Unit	
	Fahmida Rahman	2116	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on <u>05 May 2006</u>.

2a)☒ This action is **FINAL.**   2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-24* is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-24* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *12 February 2002* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All   b)☐ Some *   c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☐ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
    Paper No(s)/Mail Date *11/10/03, 7/16/03. 7/8/02*

4)☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____ .

5)☐ Notice of Informal Patent Application (PTO-152)

6)☐ Other: _____ .

DETAILED ACTION

1.   This final action is in response to communications filed on 5/5/2006.

2.   Claims 1-6, 9-13, 16-19, 21-22, 24 have been amended and claims 25-28 have

been cancelled. Thus, claims 1-24 are pending.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 13 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for

failing to particularly point out and distinctly claim the subject matter which applicant

regards as the invention.

Claim 13 recite the limitation "the suggested action" in line 1.   There is insufficient

antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form

the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3.   Claims 1-7, 10-19 are rejected under 35 U.S.C. 102(b) as being anticipated by

Teller-Kanzler et al (EP 0999489 A2).

For claim 1, Teller Kanzler et al teach **a computer-implemented method for managing risk related to a security risk event** (abstract 57), **the method comprising:**

- **receiving information relating to a particular security risk event** (s4 in Fig 6; lines 20-36 of column 3);

- **processing, by a computer** (lines 3-6 of column 4), **the information received to associate the received information with risk variables related to particular risk event** (s5 in Fig 6; lines 54 of page 3 through line 10 of page 4); **and**

- **calculating a security level using the processed information and a set of relationships established between the risk variables** (lines 11-17 of column 4).

For claim 2, note line 15 of column 4, which mentions that the degree of business risk is assessed.

For claim 3, note 16 of Fig 1, which mentions organizational environment. Level 1 – level 5 of Fig 1 shows the degree of security level that the business facility can have. Thus, the security level comprises a security confidence level indicative of how secure a particular facility can be made relative to a particular security risk event.

For claim 4, note 18, 20 and 22 of Fig 2, Fig 3 and Fig 4, which mention security level in

business commitment, policies, standards and security services. The 5 levels of 18, 20

and 22 can be indicative of how secure a particular practice can be made relative to a

particular security risk event.

For claim 5, lines 12-20 of column 12 mention that the organization can graduate from

one level to next level when it reaches a certain score. Thus, security level comprises a

security maintenance level indicative of a level of security that should be maintained in

relation to an analyzed security risk event.

For claim 6, note lines 41-42 of column 2, which mention that the method develops a

security infrastructure, which recommends solutions to deal with such threat. Thus, the

method generates a suggested security measure according to the calculated security

level and structured information.

For claim 7, note lines 29-41 of column 12, which mention that the score is used by

business managers within the organization to make decision if they are satisfied with

the particular level in light of the risk to the business of the organization. Therefore, the

information received, the security stand of business and suggested security measures

are stored for further consideration of business managers. Thus, the method comprises

the step of: storing the information received, the security level and the suggested

security measure.

For claim 10, note cell 11 of level 4 in Fig 3, which mentions that the determination of level of protection required for information assets is made. Thus, the suggested security measure comprises physical protection of media containing information relating to the transaction.

For claim 11, note the 5th cell of level 5 in Fig 4, which mention about full integration between physical security and information security. Thus, the suggested security measure comprises physical protection of a facility associated with the security risk.

For claim 12, cell 12 of level 5 in Fig 4 mentions about organization wide dissemination of security alerts, which is a physical protection of a building. Thus, the suggested security measure comprises physical protection of a building associated with a business transaction.

For claim 13, note cells 3 and 4 of level 5 in Fig 5, which mention that the help desk and organization wide reporting of security incidents. Thus, the suggested action comprises notifying an authority regarding potential breach of security.

For claim 14, lines 16-18 of column 12 mention that the score is used to determine if the organization can move from one level to next level. Thus, the score is an indicative of suggested security measure, which is a set of relationships between variables defined in ISEM grid.

For claim 15, note lines 24-27 of column 2, which mention that the information security infrastructure furnishes classifying the degree of risk associated with information asset. Thus, the level of analysis utilized in the calculation of the security level is rated according to a classification.

For claim 16, note lines 6-10 of column 4, which mention about the weighting of the categorized information security characteristics. Thus, the calculation comprises a level of weighting associated with a category of risk variables.

For claim 17, lines 12-25 of column 12 mention that the characteristics within a cell of ISEM grid is weighted according to it's importance and a score is computer. Thus, the calculation comprises aggregating multiple weightings of risk variables.

For claim 18, note line 22 of column 12, which mentions about the use of decision tree, a relationship algorithm. Thus, the calculation comprises a relationship algorithm that determines which variables affect other variables.

For claim 19, note line 22 of column 12, which mentions about the use of decision tree, a relationship algorithm. In addition, lines 12-16 of column 12 mention about the weighting of cells according to importance. The decision tree structure defines the relationship among variables, including the weighting. Thus, the calculation comprises a

relationship algorithm that determines how first variable effect weighting of other

variables.

4.   The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that

form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claim 1, 6, 8-9, 22-24 are rejected under 102(e) as being anticipated by Townsend (US

Patent Application Publication 2002/0188861).

For claim 1, Townsend teaches a computer implemented method for managing risk

related to a security risk event (Fig 1), the method comprising:

-        receive in formation relating to a particular security risk event (110 in Fig 1

receives information about identified parameters such as countermeasures,

which are directly related to a particular risk event);

-        processing by a computer, the information received to associate the received

information with risk variables related to the particular security risk event (the

received information is associated with Tables of Fig 3A, Fig 3B and Fig 4,

which comprises risk variables. The variables are related to the particular risk

event);

- and calculating a security level (150) using the processed information and a set of relationships established between the risk variables (115, 120, 130, 135, 140 show how the security level is calculated using the processed information and the relationship between risk variables).

For claim 6, 145 provides the suggestion or recommendation.

For claim 8, 180 in Fig 1 shows the generation of diligence report.

For claim 9, Fig 6 shows the report, which comprises inquiries made ("no specific training identified") and security measures executed ("courses available")

For claims 22, Townsend teaches the following limitations:

A computerized system for managing risk related to a particular security risk event (Fig 1-7), **the system comprising:**

- **a computer server** (730) **accessible with a system access device** (700, 724) **via a communications network** (726, 728, 722);
- and **executable software stored on the server and executable on demand** ([0061] of page 5), **the software operative with the server to cause the system to:**

- o **receiving information relating to the particular security risk event** (Fig 2);

- o **structuring the information received according to risk variables (Fig 4); and**

- o **calculating a security level using the structured information and a set of relationships established between the risk variables** (130, 135 and 140 in Fig 1)

For claim 23, the system of Towsend uses software to calculate security level. Thus, the software tool has to be feed with the information as shown in Fig 2 by an electronic means, since computer itself is an electronic device.

For claims 24 and 25, the system of Towsend must have the corresponding instruction code and data signal to implement the system of claim 22.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

5.   Claims 20-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Teller-Kanzler et al (EP 0999489 A2).

For claims 20-21, Teller-Kanzler et al do not teach recalculation of security level explicitly.

However, lines 13-16 of column 14 of Teller-Kanzler et al mention that the various modifications would be apparent to ordinary skill in the art and the disclosure is intended to cover all such modifications.

In addition, [0049] of column 12 mention that the managers use the score to determine whether they are satisfied with the level of organization in light of risk. Since, the new information or chronology of events may change the security level of the organization, recalculation is necessary to obtain the correct level of the organization in light of risk. One ordinary skill in the art would have been motivated to recalculate the security level responsive to new information and/or progression of chronology of events in the system of Teller-Kanzler et al, since these events/information may make the change of score of the security level. In that case, management may feel that the existing level calculated by the method is not a proper reflection of security model in light of new information or progressive chronology of events. They may want to verify that the new set of received information/progressive events still verifies the security level of the entity by recalculating the security level in receipt of new information.

Response to Arguments

Applicant's arguments filed on 5/5/2006 have been fully considered but they are not persuasive.

Applicant argues that Teller-Kanzler does not disclose a method that includes receiving information related to a particular security risk event.

Examiner disagrees. Lines 30-33 of column 14 of Teller-Kanzler describe that information regarding one or more information security characteristic is received. Therefore, information regarding particular security characteristic (or, security risk event) is received. Lines 20—36 of column 3 mention that Teller-Kanzler receives information that is indicative of a predefined risk level for the information security. Therefore, the information indicates the risk level about one or more security characteristics. Thus, the information is related to a particular risk event.

Applicant further argues that the information received by the Townsend method is not related to a particular security risk event.

Examiner disagrees. [0024] mentions that the questionnaire is tailored to solicit information consistent with the parameters identified above. The information can be related to a countermeasure as [0024] describes that the questionnaire will ask about training when training is identified as countermeasure. Countermeasures have defined relationship with attacks as shown in Fig 3B. Therefore, information related to a particular countermeasure is in fact information related to a particular security risk

event, as countermeasures are directly related to particular risk event. Therefore, the

received information is related to particular security risk event.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy

as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE

MONTHS from the mailing date of this action. In the event a first reply is filed within

TWO MONTHS of the mailing date of this final action and the advisory action is not

mailed until after the end of the THREE-MONTH shortened statutory period, then the

shortened statutory period will expire on the date the advisory action is mailed, and any

extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

the advisory action. In no event, however, will the statutory period for reply expire later

than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the

examiner should be directed to Fahmida Rahman whose telephone number is 571-272-

8159. The examiner can normally be reached on Monday through Friday 8:30 - 5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Lynne Browne can be reached on 571-272-3670. The fax phone number for

the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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